

IN THE HIGH COURT OF BOMBAY AT GOA**WRIT PETITION NO. 347 OF 2007****AND****WRIT PETITION NO. 348 OF 2007**

1. Shri Kamal Pathak,
major in age,
Contractor, and his daughter

2. Miss Rekha Kamal Pathak,
major of age,
Occupation Service,
Both r/s H.No. 264,
Sonar Bhatt,
Verem, Bardez, Goa.

.... Petitioners

V/s

1. Shri Ratnakar Sadanand Diukar,
S/o Sadanand Diukar,
Major of age, driver and his wife,

2. Smt. Ranjita Ratnakar Diukar,
major of age,
both r/o. H.No. 66/A,
Ambekhan, Verem,
Bardez-Goa.

3. Smt. Devayani Ramdas Amonkar,
major of age and her husband,

4. Shri Ramdas Amonkar,
major of age, driver,
both r/o H.No. Not known, Sirasaim,
Bardez Goa.

5. Smt. Neeta Satyawar Banaulikar,
major of age and her husband

6. Shri Satyawar Banaulikar,
major of age, service,
both R/o H.No. Not known,
Assonora, Bardez, Goa.

7. Miss Anita Sadanand Diukar,
D/o Sadanand Diukar,
major in age,
R/o. H.No. 10, Maikawada,
Pilerne, Bardez Goa.

8. Smt. Sita Rama Gaonkar,
major of age, housewife,
R/o. H.No. 204, Boca-de-Vaca,
Panaji Goa.

9. Shri Sadanand Ganesh Diukar,
major of age, unemployed,
(Since deceased)

10. Smt. Indirabhai @ Netrabai Sadanand Diukar,
major of age, housewife,
R/o. H.No. 10, Maikawada,
Pilerne, Bardez, Goa.

11. Smt. Arpita Ankush Diukar,
w/o Ankush Diukar,
major of age,

12. Shri Arpesh Ankush Diukar,
S/o. Ankush Diukar
Age 20 years, student.

13. Shri Amesh Ankush Diukar,
S/o Ankush Diukar,
Age 18 years, student,
All residents of H. No. not known,
Ambekhan,
Near Pragati High School,
C/o. Bhanudas Shirodkar,
Verem, Betim, Bardez Goa.

.... Respondents

Mr. P.P. Singh, Advocate for the Petitioners.

CORAM : N.A. BRITTO, J.

DATE : 24th SEPTEMBER, 2007

ORAL ORDER :

Heard Shri P.P. Singh, the learned Counsel on behalf of the Petitioners/ Defendants No. 1 & 2 in RCS No. 130/03/F/C. The Petitioners are challenging the order dated 19/01/2007 of the learned District Judge-3 confirming the order dated 24/04/2006 of the learned Civil Judge Junior Division.

2. The dispute is as regards the suit property admeasuring 925 sq. mts. surveyed under no. 147/3 of which Defendants No. 1 & 2 had purchased an area of 390 sq. mts. by virtue of sale deed dated 20/06/2001. It appears that the Plaintiffs as well as the said Defendants filed applications for temporary injunction and although it was expected of the learned Civil Judge Junior Division to have disposed off both the said applications by a common order, the learned Civil Judge Junior Division disposed the said applications by separate orders and Shri P.P. Singh, the learned Counsel on behalf of the Petitioners submits that the wording of the said two orders has been the same.

3. The said property was first purchased by the parents of the Plaintiffs in the said suit by a sale deed dated 15/02/1967 and subsequently the said parents of the Plaintiffs by gift deed dated 11/09/1987 gifted this entire property to the sons of the Plaintiffs before the Defendants No. 1 & 2 could

purchase the same by virtue of the said sale deed dated 20/06/2001. There is no dispute that the gift deed dated 11/09/1987 was a registered instrument. On behalf of the Petitioners, learned Counsel contends that the Petitioners/Defendants No.1 & 2 were bonafide purchasers. It may be so. Prima facie, it appears, that there was no title left for the parents of the plaintiffs, to convey a part of the property in favour of Defendants no. 1 & 2 by sale deed dated 20/06/2001, after the gift deed dated 11/09/1987, and, being so both the Courts below could not be faulted with, in case they directed that pending the final disposal of the Civil Suit, the parties should maintain status quo in respect of the disputed portion of 390 sq. mts. purchased by the said Petitioners/Defendants No. 1 & 2 by a sale deed dated 20/06/2001.

4. In view of the above, this is not a fit case for interference in extra ordinary jurisdiction. Petition dismissed in limine.

N.A. BRITTO, J.

NH/-